

(2) *an exchange of information between individuals seeking employment as peace officers in this state and state and local law enforcement agencies seeking applicants for employment as peace officers.*

(c) *The Internet website must:*

(1) *be accessible to members of the public; and*

(2) *provide to individuals seeking employment as peace officers and state and local law enforcement agencies that have posted employment opportunities on the website an organized means of exchanging information.*

(d) *The commission shall contract with the Commission on Law Enforcement Officer Standards and Education to develop a license verification interface to verify whether an applicant for employment as a peace officer:*

(1) *holds a current license issued by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code, and, if so, the level of that license; and*

(2) *has had the applicant's license revoked or suspended by the Commission on Law Enforcement Officer Standards and Education.*

(e) *The Commission on Law Enforcement Officer Standards and Education shall provide the commission with technical assistance in the development and testing of the license verification interface under Subsection (d).*

(f) *If the development and operation of the Internet website and the associated license verification interface is not possible due to a lack of available funding, the commission shall:*

(1) *enter into a memorandum of understanding with the Commission on Law Enforcement Officer Standards and Education to integrate a peace officer job matching database for individuals seeking employment as peace officers in this state and state and local law enforcement agencies seeking applicants for employment as peace officers into the commission's existing Labor Exchange System; and*

(2) *ensure that:*

(A) *the commission registers an Internet domain name that is unique and that identifies on its face the purpose of the peace officer job matching database; and*

(B) *the registered domain name and associated link directs users of the Internet to a web page that instructs users on how to use the Labor Exchange System and includes a link to enter that system.*

SECTION 2. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Passed by the House on April 28, 2009: Yeas 142, Nays 4, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 2580 on May 23, 2009: Yeas 135, Nays 1, 1 present, not voting; passed by the Senate, with amendments, on May 21, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.

Effective June 19, 2009.

CHAPTER 461

H.B. No. 2585

AN ACT

relating to digital or electronic signatures and witness signatures on advance directives.

1065

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 166.002, Health and Safety Code, is amended by adding Subdivisions (5-a) and (5-b) to read as follows:

(5-a) *"Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.*

(5-b) *"Electronic signature" means a facsimile, scan, uploaded image, computer-generated image, or other electronic representation of a manual signature that is intended by the person using it to have the same force and effect of law as a manual signature.*

SECTION 2. Subchapter A, Chapter 166, Health and Safety Code, is amended by adding Section 166.011 to read as follows:

Sec. 166.011. DIGITAL OR ELECTRONIC SIGNATURE. (a) For an advance directive in which a signature by a declarant, witness, or notary public is required or used, the declarant, witness, or notary public may sign the directive or a written revocation of the directive using:

(1) a digital signature that:

- (A) uses an algorithm approved by the department;*
- (B) is unique to the person using it;*
- (C) is capable of verification;*
- (D) is under the sole control of the person using it;*
- (E) is linked to data in a manner that invalidates the digital signature if the data is changed;*
- (F) persists with the document and not by association in separate files; and*
- (G) is bound to a digital certificate; or*

(2) an electronic signature that:

- (A) is capable of verification;*
- (B) is under the sole control of the person using it;*
- (C) is linked to data in a manner that invalidates the electronic signature if the data is changed; and*
- (D) persists with the document and not by association in separate files.*

(b) In approving an algorithm for purposes of Subsection (a)(1)(A), the department may consider an algorithm approved by the National Institute of Standards and Technology.

(c) The executive commissioner of the Health and Human Services Commission by rule shall modify the advance directive forms required under this chapter as necessary to provide for the use of a digital or electronic signature that complies with the requirements of this section.

SECTION 3. Section 166.032, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1), the [The] declarant must sign the directive in the presence of two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2). The witnesses must sign the directive.

(b-1) The declarant, in lieu of signing in the presence of witnesses, may sign the directive and have the signature acknowledged before a notary public.

SECTION 4. Section 166.036(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 166.032(b-1), a [A] written directive executed under Section 166.033 or 166.035 is effective without regard to whether the document has been notarized.

SECTION 5. Sections 166.082(b) and (c), Health and Safety Code, are amended to read as follows:

(b) Except as provided by this subsection, the [The] declarant must sign the out-of-hospital DNR order in the presence of two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2). The witnesses must sign

the order. The attending physician of the declarant must sign the order and shall make the fact of the existence of the order and the reasons for execution of the order a part of the declarant's medical record. *The declarant, in lieu of signing in the presence of witnesses, may sign the out-of-hospital DNR order and have the signature acknowledged before a notary public.*

(c) If the person is incompetent but previously executed or issued a directive to physicians in accordance with Subchapter B, the physician may rely on the directive as the person's instructions to issue an out-of-hospital DNR order and shall place a copy of the directive in the person's medical record. The physician shall sign the order in lieu of the person signing under Subsection (b) *and may use a digital or electronic signature authorized under Section 166.011.*

SECTION 6. Section 166.083(b), Health and Safety Code, is amended to read as follows:

(b) The standard form of an out-of-hospital DNR order specified by the board must, at a minimum, contain the following:

(1) a distinctive single-page format that readily identifies the document as an out-of-hospital DNR order;

(2) a title that readily identifies the document as an out-of-hospital DNR order;

(3) the printed or typed name of the person;

(4) a statement that the physician signing the document is the attending physician of the person and that the physician is directing health care professionals acting in out-of-hospital settings, including a hospital emergency department, not to initiate or continue certain life-sustaining treatment on behalf of the person, and a listing of those procedures not to be initiated or continued;

(5) a statement that the person understands that the person may revoke the out-of-hospital DNR order at any time by destroying the order and removing the DNR identification device, if any, or by communicating to health care professionals at the scene the person's desire to revoke the out-of-hospital DNR order;

(6) places for the printed names and signatures of the witnesses *or the notary public's acknowledgment and for the printed name and signature of the* attending physician of the person and the medical license number of the attending physician;

(7) a separate section for execution of the document by the legal guardian of the person, the person's proxy, an agent of the person having a medical power of attorney, or the attending physician attesting to the issuance of an out-of-hospital DNR order by nonwritten means of communication or acting in accordance with a previously executed or previously issued directive to physicians under Section 166.082(c) that includes the following:

(A) a statement that the legal guardian, the proxy, the agent, the person by nonwritten means of communication, or the physician directs that each listed life-sustaining treatment should not be initiated or continued in behalf of the person; and

(B) places for the printed names and signatures of the witnesses and, as applicable, the legal guardian, proxy, agent, or physician;

(8) a separate section for execution of the document by at least one qualified relative of the person when the person does not have a legal guardian, proxy, or agent having a medical power of attorney and is incompetent or otherwise mentally or physically incapable of communication, including:

(A) a statement that the relative of the person is qualified to make a treatment decision to withhold cardiopulmonary resuscitation and certain other designated life-sustaining treatment under Section 166.088 and, based on the known desires of the person or a determination of the best interest of the person, directs that each listed life-sustaining treatment should not be initiated or continued in behalf of the person; and

(B) places for the printed names and signatures of the witnesses and qualified relative of the person;

(9) a place for entry of the date of execution of the document;

(10) a statement that the document is in effect on the date of its execution and remains in effect until the death of the person or until the document is revoked;

(11) a statement that the document must accompany the person during transport;

(12) a statement regarding the proper disposition of the document or copies of the document, as the board determines appropriate; and

(13) a statement at the bottom of the document, with places for the signature of each person executing the document, that the document has been properly completed.

SECTION 7. Section 166.089(d), Health and Safety Code, is amended to read as follows:

(d) The responding health care professionals must determine that the out-of-hospital DNR order form appears to be valid in that it includes:

(1) written responses in the places designated on the form for the names, signatures, and other information required of persons executing or issuing, or witnessing *or acknowledging as applicable*, the execution or issuance of, the order;

(2) a date in the place designated on the form for the date the order was executed or issued; and

(3) the signature *or digital or electronic signature* of the declarant or persons executing or issuing the order and the attending physician in the appropriate places designated on the form for indicating that the order form has been properly completed.

SECTION 8. Section 166.154, Health and Safety Code, is amended to read as follows:

Sec. 166.154. EXECUTION ~~[AND WITNESSES]~~. (a) *Except as provided by Subsection (b), the* ~~[The]~~ medical power of attorney must be signed by the principal in the presence of two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2). The witnesses must sign the document.

(b) *The principal, in lieu of signing in the presence of the witnesses, may sign the medical power of attorney and have the signature acknowledged before a notary public.*

(c) ~~[(b)]~~ If the principal is physically unable to sign, another person may sign the medical power of attorney with the principal's name in the principal's presence and at the principal's express direction. *The person may use a digital or electronic signature authorized under Section 166.011.*

SECTION 9. (a) Not later than December 1, 2009, the executive commissioner of the Health and Human Services Commission shall adopt the rules and modify the forms as necessary to comply with the changes in law made by this Act.

(b) Notwithstanding Chapter 166, Health and Safety Code, as amended by this Act, a person may not sign an advance directive or a written revocation of an advance directive using a digital or electronic signature before January 1, 2010.

SECTION 10. This Act takes effect September 1, 2009.

Passed by the House on May 12, 2009: Yeas 149, Nays 0, 1 present, not voting; passed by the Senate on May 26, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.

Effective September 1, 2009.

CHAPTER 462

S.B. No. 80

AN ACT

relating to employer contributions under small employer health benefit plans.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1501.153, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), a small employer health benefit plan issuer may offer a small employer the option of a small employer health benefit plan for which the